

### **REMARKS**

Reconsideration of the above-identified application in view of the amendments above and the remarks following is respectfully requested.

Claims 1-16 are in this case. Claims 9 and 15-16 were withdrawn under a restriction requirement as drawn to a non-elected invention. Claims 1-8 and 10-14 have been rejected. Claims 1, 4-5, 11 and 13-14 have now been amended. Claims 2-3, 10 and 12 have now been cancelled.

### ***Drawings***

The Examiner states that the drawings are considered informal and that appropriate correction is required under 37 C.F.R. § 1.85(a). Please find enclosed herewith formal drawings as required.

### ***Objections to the specification***

The Examiner states that the Title is not descriptive and that a new title is required that is clearly indicative of the invention to which the elected claims are drawn. Applicant has now replaced the Title to comply with the Examiner's request.

The Examiner states that the Abstract is objected to for not completely describing the disclosed subject matter and that the inclusion of the source species, *Myxococcus xanthus* should be included. Applicant has now amended the Abstract to more accurately describe the present invention.

The Examiner states that there is lacking of continuity data in the first paragraph and that appropriate amendment is required in order to claim the benefit of U.S. non-Provisional Application No. 09/240,537, filed on January 29, 1999. Applicant has now amended the first paragraph accordingly.

The Examiner states that the specification is objected to for the removal of functional description of each of the disclosed polypeptide sequence, which was included in the originally intended-sequence listing. Applicant has now amended the specification to include Table 1 which provides functional description of each of the disclosed polypeptide sequence. The description provided in table 1 does not go

beyond that introduced in the filed application and as such no new subject matter is added in this table.

The Examiner states that the specification is objected for the lack of description of each of the disclosed sequences. Applicant has now amended the specification to include Tables 1 and 2. The description provided in tables 1 and 2 does not go beyond that introduced in the filed application and as such no new subject matter is added in these tables.

The Examiner states that amendment filed November 6, 2002, (Paper No.18) is objected under U.S.C. § 132 because it introduces new matter into the disclosure. The added material which is not supported by the original disclosure is as follows:

SEQ ID NO:10 is originally disclosed as 82 amino acids on page 15 of the specification, but in the amended sequence listing filed as Paper No. 18, this sequence has 83 amino acids.

SEQ ID NO:19 is originally disclosed as 423 amino acids on page 17 of the specification, but in the amended sequence listing filed as Paper No. 18, this sequence has 424 amino acids.

Applicant wishes to point out that in fact no new matter was introduced in Paper 18. The sequences designated as SEQ ID NOs: 10 and 19 shown in Paper No. 18 are identical to SEQ ID NOs: 10 and 19 shown in the original disclosure. Thus, SEQ ID NOs:10 in the original disclosure in fact comprises 83 amino acid but was mistakenly described as having just 82 amino acids. Similarly, SEQ ID NOs:19 in the original disclosure in fact comprises 424 amino acid but was mistakenly described as having just 423 amino acids. The same sequences were formatted in Paper No. 18 for compliance with the sequence rules, being unaware of the errors in the original disclosure. Yet, no new matter was introduced in the amendment filed November 6, 2002, (Paper No.18).

In view of the above clarifications and claim amendments, Applicant believes to have overcome the objections to the specification.

### ***Objection to the Claims***

The Examiner objects to claims 1-8 and 10-14 for containing non-elected subject matter and states that the instant claims will be examined only in reference to SEQ ID NOs 1 and/or 2 (the elected Group). Claims 1 and 4 have been amended accordingly and Claims 2-3 have been cancelled. In view of the claim amendments, Applicant believes to have overcome the objections to the claims.

### ***35 U.S.C. § 112 Rejections***

The Examiner rejects claims 2-8 and 10-14 under 35 U.S.C. § 112 , second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1, 4-5, 11 and 13-14 have now been amended. Claims 2-3, 10 and 12 have now been cancelled.

The Examiner states that in Claim 2, the phrase “as set forth in and of” is wholly unclear. Claim 2 has now been cancelled rendering moot the Examiner rejection in this case.

The Examiner states that Claim 8 is unclear with respect to Claim 2 wherein only a SEQ ID NO: 2 is named and no encoding polypeptide is mentioned the term “encoded polypeptide”. Applicant has cancelled Claim 2 and amended Claims 4-5 so as to exclude any DNA sequence requirement other than the isolated DNA sequence encoding the polypeptide set forth in SEQ ID NO:1.

The Examiner states that Claims 10-14 are confusing based on their requiring the DNA of Claim 7, wherein Claim 7 is drawn to an *E. coli* host cell. The Applicant has cancelled Claims 10 and 12 and amended claims 4-5, 11 and 13-14 so as to exclude any DNA sequence requirement other than the isolated DNA sequence encoding the polypeptide set forth in SEQ ID NO:1.

The Examiner states that in Claim 11, the term “suitable” is unclear. Claim 4-5 and 11 have been amended so as to specifically point out the host cell of the present invention.

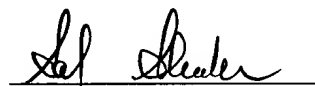
In view of the above clarifications and claim amendments, Applicant believes to have overcome the Examiner's rejections.

The Examiner has cited Paitan *et al.* [J. Molecular Biology. 286: 465-474 (1999)]; Veron *et al.* [FEMS Microbiology Letters 155: 141-146 (1997)]; and Tolchinsky *et al.* [Antimicrobial Agents and Chemotherapy 36: 2322-2327 (1992)] to complete, or comment on the record for the instant application. These references have been carefully reviewed but are deemed not to anticipate nor render obvious Applicant's claimed invention, either singly or in combination, as was properly stated by the Examiner.

In view of the above clarifications and claim amendments, Applicant believes to have overcome the objections and rejections raised by the Examiner.

It is therefore respectfully submitted that claims 1, 4-8, 11 and 13-14 are now in condition for allowance. Prompt notice of allowance is respectfully and earnestly solicited.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Sol Sheinbein', is written over a horizontal line.

Sol Sheinbein  
Registration No. 25,457

Date: October 19, 2003

***Encl.***

Replacement drawing